



**PRESENT:**

Mr. Daniel A. Gecker, Chairman  
Mr. Sherman W. Litton, Vice-Chairman  
Mr. Phillip G. Cunningham  
Mr. Russell J. Gulley  
Mr. Ronald K. Stack  
Mr. Thomas E. Jacobson, Secretary to the Commission,  
Planning Director

**ALSO PRESENT:**

Mr. William D. Poole, Assistant Director,  
Development Review, Planning Department  
Mr. Glenn E. Larson, Assistant Director, Plans and Information  
Section, Planning Department  
Ms. Beverly F. Rogers, Assistant Director, Zoning and  
Special Projects, Planning Department  
Mr. Robert V. Clay, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Jane Peterson, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Darla W. Orr, Senior Planner, Zoning and  
Special Projects, Planning Department  
Mr. Fred Moore, Planner, Zoning and  
Special Projects, Planning Department  
Mr. Theodor Barclay, Code Enforcement Supervisor,  
Code Enforcement Branch, Planning Department  
Mr. Gregory E. Allen, Planning Administrator,  
Development Review, Planning Department  
Mr. Jeffrey H. Lamson, Senior Planner, Development  
Review, Planning Department  
Mr. Alan G. Coker, Senior Planner, Development  
Review, Planning Department

Mr. Doug Mawby, Senior Planner, Development  
Review, Planning Department  
Mr. Zachary L. Robbins, Planner, Development  
Review, Planning Department  
Mr. David A. Hainley, Planning Administrator,  
Development Review, Planning Department  
Ms. Barbara Fassett, Planning Administrator, Advance Planning  
and Research Branch, Planning Department  
Mr. James K. Bowling, Principal Planner, Advance Planning  
and Research Branch, Planning Department  
Mr. Steven F. Haasch, Planner, Advance Planning and  
Research Branch, Planning Department  
Ms. Linda N. Lewis, Administrative Secretary, Administrative  
Branch, Planning Department  
Ms. Teresa C. Davis, Administrative Specialist, Administrative  
Branch, Planning Department  
Mr. David W. Robinson, Assistant County Attorney,  
County Attorney's Office  
Mr. Allan M. Carmody, Budget Manager,  
Budget and Management Department  
Mr. R. John McCracken, Director,  
Transportation Department  
Mr. Stan B. Newcomb, Principal Engineer,  
Transportation Department  
Mr. Richard M. McElfish, Director,  
Environmental Engineering Department  
Ms. Joan Salvati, Water Quality Administrator,  
Environmental Engineering Department  
Mr. Douglas Pritchard, Jr., Engineering Supervisor,  
Mr. Randolph Phelps, Senior Engineer,  
Utilities Department  
Mr. Michael S. Golden, Director,  
Parks and Recreation Department  
Mr. Stuart Connock, Jr., Chief of Park Design  
and Construction, Parks and Recreation Department  
Ms. Jennifer Wampler, Planner, Parks Maintenance Division,  
Parks and Recreation Department  
Assistant Fire Marshal Steve Hall, Fire and Life Safety,  
Fire Department  
Ms. Cynthia Owens-Bailey, Director of Planning,  
School Administration

#### **WORK SESSION**

At approximately 12:00 p. m., Messrs. Gecker, Litton, Cunningham, Gulley, Stack and staff met in the Executive Session Meeting Room, Chesterfield County Administration Building for lunch and a work session to discuss the following:

- A. **Requests to Postpone Action, Emergency Additions or Changes in the Order of Presentation.**
- B. **Review Day's Agenda.**  
(NOTE: At this time, any items listed for the 3:00 p. m. and 7:00 p. m. Sessions will be discussed.)
- C. **Plans and Information Section Projects Update.**
- D. **Work Program – Review and Update.**
- E. **Consideration of the following Administrative Substantial Accord Determination:**

<b><u>CASE AND DISTRICT</u></b>	<b><u>APPLICANT</u></b>	<b><u>REQUEST</u></b>	<b><u>PROJECT NAME</u></b>
04PD0143 Bermuda	Chesterfield County Parks and Recreation	Substantial Accord Determination	Ware Bottom Church Civil War Park

- F. **Discussion Relative to:**
  - ▶ **Proposed Ettrick Village Plan and related Ordinance Amendments.**
  - ▶ **Retaining Wall Design.**
  - ▶ **Proposed Chesapeake Bay Ordinance Amendments.**

**A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

Mr. Gecker requested a new Item F. be added to the agenda to discuss the Substantial Accord Determinations for the three (3) proposed school sites.

On motion of Mr. Cunningham seconded by Mr. Litton, the Commission amended the agenda to add a new Item F., Discussion relative to Substantial Accord Determinations for the Three (3) Proposed School Sites and reordered the remaining agenda accordingly.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**B. REVIEW DAY'S AGENDA.**

Messrs. Allen and Hainley updated the Commission as to the status of, and staff's recommendation for, the requests to be considered during the Afternoon Session.

Ms. Rogers updated the Commission as to the status of, and staff's recommendation for, the upcoming caseloads and the zoning requests to be considered during the Evening Session.

During discussion of the 7:00 p. m. Evening Session cases, Mr. Cunningham requested that Case 02SN0296, Ted A. Williams, Thomas A. Williams, Grace M. Williams Trust and George P. Emerson, Jr., be called as the first deferral case on the agenda.

On motion of Mr. Cunningham, seconded by Mr. Litton, the Commission amended the 7:00 p. m. Evening Session agenda to call Case 02SN0296, Ted A. Williams, Thomas A. Williams, Grace M. Williams Trust and George P. Emerson, Jr., as the first deferral case on the agenda and reordered the remainder of the agenda accordingly.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

Mr. Poole updated the Commission as to the status of, and staff's recommendation for, the proposed Code Amendment relating to Civil Penalties for Zoning Violations.

**C. PLANS AND INFORMATION SECTION PROJECTS UPDATE.**

Ms. Fassett updated the Commission as to the status of ongoing meetings and projects, including the Northern Area Plan, the Upper Swift Creek Plan and the Chester Village Plan, the Matoaca Village Plan, a County-wide Planning Education Project and the Cloverleaf Mall Study.

**D. WORK PROGRAM.**

Upon conclusion of discussion relative to the Commission's Work Program, it was the consensus of the Commission to adopt their November 2003 Work Program, as outlined by Mr. Jacobson.

**E. CONSIDERATION OF THE FOLLOWING ADMINISTRATIVE SUBSTANTIAL ACCORD DETERMINATION:**

<b><u>CASE AND DISTRICT</u></b>	<b><u>APPLICANT</u></b>	<b><u>REQUEST</u></b>	<b><u>PROJECT NAME</u></b>
04PD0143 Bermuda	Chesterfield County Parks and Recreation	Substantial Accord Determination	Ware Bottom Church Civil War Park

No one came forward to represent the request.

There was no opposition present.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission confirmed the decision of the Director of Planning that the proposed public facility (Ware Bottom Church Civil War Park) met the requirements outlined in Part 4 of the County's Substantial Accord Policy for Case 04PD01432, Chesterfield County Parks and Recreation, in accordance with the following conditions:

**CONDITIONS**

1. Prior to the property being designated for park use or prior to site plan approval, whichever occurs first, forty-five (45) feet of right of way on the north side of Old Bermuda Hundred Road, measured from the centerline of Old Bermuda Hundred Road immediately adjacent the property, shall be recorded. (T)
2. Direct access from the property to Old Bermuda Hundred Road shall be limited to one (1) entrance/exit. The exact location of this access shall be approved by the Transportation Department. (T)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**F. DISCUSSION RELATIVE TO SUBSTANTIAL ACCORD DETERMINATIONS FOR THE THREE (3) PROPOSED SCHOOL SITES.**

There was discussion relative to a request from the Commission to the Board of Supervisors to grant a forty-five (45) day extension to allow review of the County's updated Public Facilities Plan to determine if the Plan contained information that could alter the location where construction of at least one (1) of the new high schools was proposed.

Upon conclusion of the discussion, it was on motion of Mr. Cunningham, seconded by Mr. Litton, that the Commission asked that staff prepare a memo to the Board of Supervisors requesting that the Board extend the length of time that the Planning Commission had to act on Substantial Accords for three (3) school sites (Cases 04PD158, 04PD0163 and 04PD0188) for forty-five (45) days.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

Mr. Litton left the meeting at approximately 2:00 p. m.

**G. DISCUSSION RELATIVE TO:**

► **PROPOSED ETTRICK VILLAGE PLAN AND RELATED ORDINANCE AMENDMENTS.**

Mr. Haasch presented an overview of, and staff's recommendation for, the proposed, draft Ettrick Village Plan, including land use and transportation recommendations; a related Ordinance Amendment for changes to the development standards and design guidelines for office and commercial development within the Village Core; a summary of properties within the Plan geography that did not comply with the recommended Ettrick Village Plan with respect to zoning; and recommended the Commission set the date of November 18, 2003, for public hearing to consider of the Plan.

Upon conclusion of discussion, it was on motion of Mr. Stack, seconded by Mr. Gulley, that the Commission to set the date of, and requested staff advertise, November 18, 2003, at 7:00 p. m., for public hearing to consider the draft Ettrick Village Plan and related Ordinance Amendment.

AYES: Messrs. Gecker, Cunningham, Gulley and Stack.  
ABSENT: Mr. Litton.

► **RETAINING WALL DESIGN.**

There was discussion relative to the Commission's request that staff provide research regarding the regulation of the appearance of retaining walls, including benchmarking with various communities and their approach to the issue.

Upon conclusion of the discussion, the Commission requested staff provided additional information relative to the Cary, North Carolina ordinance requirements with respect to retaining wall designs at their November 18, 2003, Planning Commission work session.

► **PROPOSED CHESAPEAKE BAY ORDINANCE AMENDMENTS.**

Ms. Salvati presented information relative to proposed revisions to the Chesapeake Bay Preservation Ordinance, noting staff met with representatives from the various stakeholder groups that would be interested in and/or affected by the changes. She pointed out that after review of the various changes, those present noted the changes closely reflected the revised State regulations that had been mandated, offered no further recommended revisions to the proposed amendment and indicated staff was prepared to proceed to public hearing.

Mr. Litton returned to the meeting at approximately 2:20 p. m.

Upon conclusion of the discussion, it was on motion of Mr. Gulley, seconded by Mr. Stack, the Commission set the date of, and requested staff advertise, November 18, 2003, at 7:00 p. m., for public hearing to consider the proposed Chesapeake Bay Ordinance Amendments.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

The Commission recessed at approximately 2:21 p. m., agreeing to reconvene at 3:00 p.m. in the Public Meeting Room for the Afternoon Session.

**3:00 P. M. AFTERNOON SESSION**

Mr. Gecker, Chairman, called the Afternoon Session to order at approximately 3:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building.

**A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

**B. APPROVAL OF PLANNING COMMISSION MINUTES – SEPTEMBER 16, 2003:**

Mr. Jacobson stated that the first order of business would be the consideration of the September 16, 2003, Planning Commission minutes.

On motion of Mr. Gulley, seconded by Mr. Stack, the Commission resolved to approve the September 16, 2003, Planning Commission minutes, with the following corrections:

**Page 48, paragraph 8:**

“Mr. Gecker stated his firm in Fayetteville, ~~NC~~ **Arkansas**, represented the applicant, declared a conflict of interest pursuant to the Virginia Conflict of Interest Act and excused himself from the meeting at approximately 8:10 p. m.

**Page 49, paragraphs 3 and 4:**

“Mr. John Clark, Ms. Amy Satterfield, Mr. Pepe Jones, ~~Ms. Nancy Ryland~~, Mr. Ed Lawhorn, Ms. Kathy Gaston, Mr. Joe Boisineau and Mr. John Easter, area residents, voiced support for the request, noting that the use provided a convenient shopping location for area residents; precluded access to Old Buckingham Road and would provide substantial landscaping and monies for area improvements.

:Ms. Elizabeth Arnold, **Ms. Nancy Reiland**, Mr. Paul Germain and Mr. Mark Alonzi, area residents, did not opposed the Wal-Mart development but expressed concerns relative to some of the I-1 uses; lack of buffers along Old Buckingham Road; landscaping design; increased traffic; the need for additional time to evaluate the proposal; safety; and precedent for future area zonings which do not comply with the Plan.”

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**C. CONSIDERATION OF THE FOLLOWING REQUESTS:**

◆ **WITHDRAWAL – TENTATIVE PLAT.**

**04TS0128:** In Bermuda Magisterial District, **COBBS POINT, LLC POINT OF ROCKS LANDING, LLC AND SOUTHBEND LANDING, LLC** withdrew tentative plat approval of Cobbs Point, Section 2, with an exception to having more than fifty (50) lots off a single access, as provided by Section 17-76(h)(5). This development is commonly known as **COBBS POINT**. This request lies in Residential (R-9 and R-12) Districts on part of seven (7) parcels totaling 15.03 acres lying at the western end of Cobbs Point Lane. Tax IDs 816-644-0125 and Part of 7343 and 819-643-1283, 1494, 1673, 2397 and 3195 (Sheet 35).

No one came forward to represent the request.

Staff indicated the applicant had submitted written documentation requesting withdrawal of Case 04TS0128.

There was no opposition to the withdrawal.

On motion of Mr. Cunningham, seconded by Mr. Gulley, the Commission acknowledged withdrawal of Case 04TS0128, Cobbs Point, LLL, Point of Rocks Landing, LLC and Southbend Landing, LLC (Cobbs Point).

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **DEFERRAL – SITE PLAN.**

**00PR0149:** In Bermuda Magisterial District, **LAVERNE C. COLE** requested deferral to February 17, 2004, of consideration for Planning Commission approval of a site plan for an approximately 2,600 square foot convenience/fast-food building, as required by Proffered Condition 18 of zoning Case 97SN0150. This project is commonly known as **COLE C'STORE**. This request lies in a Neighborhood Business (C-2) District on a 2.138 acre parcel fronting approximately 470 feet on the north line of Route 10, also fronting approximately 210 feet on the west line of Rock Hill Road. Tax ID 797-655-3409 (Sheet 26).

Mr. Laverne Cole, the applicant, requested deferral of Case 00PR0149 to the February 17, 2004, Planning Commission meeting.

No one came forward to speak in favor of, or in opposition to, the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Cunningham, seconded by Mr. Gulley, the Commission resolved to defer Case 00PR0149, Laverne C. Cole (Cole C'Store), to the February 17, 2004, Planning Commission meeting.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **CASES WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND THERE WAS NO OPPOSITION PRESENT – LANDSCAPE PLAN, SITE PLAN, ARCHITECTURE and APPEAL.**

**03PR0368:** In Clover Hill Magisterial District, **VIRGINIA CREDIT UNION** requested Planning Commission approval of a landscape plan, per zoning Case 86S117. This development is commonly known as **VIRGINIA CREDIT UNION OPERATIONS CENTER**. This request lies in a Light Industrial (I-1) District on part of a 150.31 acre parcel fronting approximately 1,000 feet on the east line of Charter Colony Parkway, north of Carriage Creek Lane. Tax ID 730-691-Part of 4669 (Sheet 9).

Mr. Keith VanInwegen; the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved that approval of a landscape plan, as required by zoning Case 86S117, for Case 03PR0368, Virginia Credit Union (Virginia Credit Union Operations Center), shall be and it thereby was granted, subject to the following conditions:

**CONDITIONS**



1. Revisions to the landscape plan and substitutions to the specified plant materials may be made provided such changes maintain the overall design concept, are documented on revised plans submitted to the Planning Department, and are approved by the Planning Department prior to installation.
2. Landscape plans shall be revised and submitted to the Planning Department for review and approval, addressing the following review comments:
  1. Label the twenty-five (25) foot "buffer area" along the proposed east-west road public road as required by the Textual Statement of Case 86S117.
  2. Label the fifty (50) foot "buffer area" along Charter Colony Parkway (formerly known as Old Hundred Road) as required by the Textual Statement of Case 86S117.
  3. Within each of the required buffer areas noted above, indicate existing groups of trees to remain and proposed landscaping. Provide the following note for each buffer area:

"Perimeter Landscape C is required within buffer areas. Existing plant material within the buffer areas may be credited toward landscape requirements as determined in the field by an agent of the Planning Department. If insufficient vegetation exists, additional plant material will be required to satisfy landscape requirements. Prior to occupancy of the building, call the Planning Department to schedule an inspection of existing plant material."
  4. Indicate the pedestrian walkway on the landscape plan in conformance with the walk on the final approved site plan.

Any improvements permitted within the buffer area, not shown on these plans, must be approved by the Planning Commission at a later date. For permitted improvements within the buffer area, reference the definition of buffer located in the background section of this report.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**03PR0369:** In Clover Hill Magisterial District, **MIKE KASKI** requested Planning Commission approval of a site plan, as required by Proffered Condition 11 of zoning Case 94SN0124 and a twenty-five (25) foot reduction to a forty (40) foot buffer, required by Proffered Condition 8 of zoning Case 94SN0124 at the location of an existing structure. This development is commonly known as **COUNTRYSIDE VETERINARIAN CENTER**. This request lies in a Neighborhood Office (O-1) District on a .627 acre parcel fronting approximately 180 feet on the north line of Lucks Lane, lying approximately 1,150 feet from its intersection with Courthouse Road. Tax IDs 743-696-8388 and Part of 9495 (Sheet 10).

Mr. Mike Kaski, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved that site plan approval, in conjunction with a twenty-five (25) foot reduction in the forty (40) foot buffer at the location of the existing structure adjacent to agriculturally-zoned property, for Case 03PR0369, Mike Kaski (Countryside Veterinarian Center), shall be and it thereby was granted, subject to the following conditions and review comments:

#### CONDITION

Plans shall be revised and submitted for administrative review that address the Review Comments noted in the Staff's Request Analysis and Recommendation with the following Review Comments revised as follows.  
(P)

#### REVIEW COMMENTS:

1. Show new location of the gravel drive. (VDOT & T)
2. Show the actual line and length of horizontal and vertical sight distance on a smaller scale so that the whole line is visible on the plan sheet. (VDOT & T)
3. The width of the new lane on the typical section should read twelve (12) feet to the edge of pavement and not the face of curb. (VDOT & T)
4. Note should be added adjacent to the typical section: "During construction, coring of the existing pavement on Route 720 will be performed to ensure that the minimum pavement design shown here is sufficient. If the existing pavement depths are greater, it will be necessary to match the existing conditions." (VDOT & T)
5. General Note for 2003 Maintenance of Traffic needs to be added to the work area protection layout. (VDOT & T)
6. Hydraulic calculations evaluating the impact of the increased runoff from the additional paved surface upon the drainage within the right of way must be provided. (VDOT & T)
7. Place a note on the plan: "Contact Denee Lonce at 804-717-6019 forty-eight (48) hours before installation of the monitoring manhole in order for an inspector to be present." (U)
8. Show the existing well disconnected from the building. (U)
9. Provide calculations for the two (2) foot curb cut on the south side to ensure its hydraulic capacity for the ten (10) year storm. (EE)
10. Calculations must be submitted to support the design of all proposed culverts, open ditches, drop inlets and storm sewers on VDOT standard calculation sheets. Address for the storm sewer now proposed to the west of the building. (EE)
11. Hydraulic grade line calculations are required to support the design of all proposed storm sewers. Address for the storm sewer now proposed to the west of the building. (EE)

12. All existing and proposed storm sewers, culverts, drop inlets and appurtenances must be assigned a structure number and listed in tabular form on the plan sheet on which they are located. Address for the storm sewer now proposed to the west of the building. Note that the minimum diameter for storm sewer is fifteen (15) inches. (EE)
13. Label the structure numbers for the above storm sewer on Sheet 2. (EE)
14. Provide silt fence on the downstream side of the above storm sewer system. (EE)
15. An exception letter must be submitted to, and approved by, the Director of Environmental Engineering for the use of the off-site credits prior to issuance of a land disturbance permit. (EE)
16. Documentation that the off-site credits have been acquired must be submitted to Environmental Engineering prior to issuance of a land disturbance permit. (EE)
17. A land disturbance permit is required for this project and the following are required prior to its issuance:
  - a. Substantial or full site plan approval.
  - b. A VDOT land use permit. (EE)
18. Although some spot elevations have been added per previous Comment 6, the intent is still not clear and some of the slopes at the handicap parking are not clearly within the required limits. The space next to the handicap parking space has slopes that are eight (8) percent or more and do not seem to make a transition to the required two (2) percent maximum slope for handicap parking. Revise and clarify. (P)
19. The walk from the parking to the public entrance does not match the entrance shown on the building permit set. Revise and coordinate. (P)
20. Per previous Comments 8 and 11, revise the drawings to show the forty (40) foot buffer and the thirty (30) foot side yard setback along the west property line. A thirty (30) foot buffer is currently indicated. (P)
21. Per previous Comment 11, label the forty (40) foot buffer in the rear yard also as rear yard setback. (P)
22. Per previous Comment 11, revise the reference to buffer in the front yard to read front yard setback and tree save area. (P)
23. The revised plan indicates a stormwater drainage pipe to be installed within the forty (40) foot buffer along the western property line. Provide tree protection fence on the west side of the pipe four (4) feet or less from the pipe. (P)

24. Per previous Comment 10, relocate the topsoil stockpile out of the buffer. If you provide a tree survey that shows the location and size of each tree and shrub you may locate the soil stockpile so that it is located one (1) foot per caliper inch away from each tree and outside of each shrub. Tree protection fence must be indicated and installed. (P)
25. Per previous Comment 8, revise plans so that grading does not occur in the buffer. If you provide a tree survey that shows the location and size of each tree and shrub you may grade not closer than one (1) foot per caliper inch away from each tree and outside of each shrub. Tree protection fence must be indicated and installed. (P)
26. Revise and correct the parking calculations. The plan indicates that seventeen (17) spaces are required. Show the total developed area in square feet divided by 200 square feet. A reduction of three (3) parking spaces was approved by the Board of Zoning Appeals so that thirteen (13) parking spaces are required. (P)
27. The Ordinance requires that a state registered landscape architect, landscape designer or nurseryman prepare the landscape plan. Given the timing of implementation of this requirement, we will allow the engineer to incorporate the design on his sheet with the design assistance of one (1) of the designers noted above. Provide the name, address, phone and fax numbers for the person preparing the landscape plan/design other than the engineer on the landscape plan. (P)
28. On the landscape plan, revise the length of the front yard to 190 linear feet and revise calculations and landscape plan. Add medium shrubs and ground cover. (P)
29. On the landscape plan, revise the side yard setback to 113 linear feet and revise the calculations and plan to reflect this change. Add medium shrubs. (P)
30. Revise the parking interior landscape calculations to provide thirty (30) square feet of landscape area per parking space. (P)
31. Silver Maple is a weak wooded tree and is not permitted for required trees. Revise the plant schedule to use a tree from the County plant list such as Red Maple or Willow Oak. (P)
32. It is permitted that native trees such as Red Maple and Flowering Dogwood be planted at a two (2) - two and one-half (2 ½) inch size. As a suggestion, revise the plant schedule to allow this smaller size for native trees. (P)
33. Revise the size of Leyland Cypress to seven (7) feet in height. As a suggestion, revise the Leyland Cypress to Loblolly Pine planted at six (6) feet in height. (P)
34. Revise the height of the English Holly to seven (7) feet in height. As a suggestion, revise the English Holly to American Holly that may be planted at six (6) feet in height. (P)
35. Sargent Juniper does not meet the height requirement of three (3) feet high in five (5) years

for medium shrubs but may be used for low shrubs and ground cover. Revise plans and plant schedule. (P)

36. Revise the landscape schedule to show the correct number of required plants per the revised landscape plan. (P)
37. Revise the planting plan to show the correct number of required trees and shrubs. (P)
38. Provide a parking block in front of the handicap parking space. On the landscape plan, move the parking block from the access aisle to the parking space. (P)
39. Per previous Comment 38, revise plans to show mechanical units and screening on the site plan, include details of screening. (P)
40. Revise the hose bib plan to show a hose bib within 100 feet of all new planting per previous Comment 37. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**04PR0144:** In Midlothian Magisterial District, **JUBILEE LIMITED PARTNERSHIP** requested Planning Commission approval for architecture, as required by the Proffered Condition of zoning Case 93SN0189 (Amended). This development is commonly known as **DSW-MIDLOTHIAN**. This request lies in a Neighborhood Business (C-2) District on a 5.45 acre parcel fronting approximately 360 feet on the west line of Huguenot Road, approximately 730 feet on the east line of Alverser Drive and approximately 430 feet on the north line of Old Buckingham Road. Tax ID 739-710-7626 (Sheet 6).

Mr. Adrian Jacob, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved that approval for architecture, as required by the Proffered Condition of zoning Case 93SN0189 (Amended), for Case 04PR0144, Jubilee Limited Partnership (DSW – Midlothian), shall be and it thereby was granted, subject to the following condition:

#### CONDITION

The building modifications shall be substantially as shown on the drawings provided by Herschman Architects, dated October 2, 2003.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**04TS0147:** In Bermuda Magisterial District, **POINT OF ROCKS LANDING, LLC** appeals one (1) condition and one (1) note of the administrative approval letter of Case 03TS0251, Ramblewood Forest. This development is commonly known as **RAMBLEWOOD FOREST**. This request lies in a Residential (R-15) District on a 105.57 acre parcel fronting on the western terminus of Greyledge Boulevard, also fronting approximately 500 feet on the northern line of Ramblewood Drive, approximately 1,500 feet east of the intersection with Golf Course

Road. Tax ID 813-648-1736 (Sheets 27 and 35).

Mr. Charlie Townes, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission acknowledged removal of Case 04TS0147, Point of Rocks Landing, LLC (Ramblewood Forest), from the Planning Commission agenda.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

◆ **CASES WHERE THE APPLICANT DID NOT ACCEPT THE RECOMMENDATION AND/OR THERE WAS PUBLIC OPPOSITION OR CONCERN – SIGN PACKAGE AMENDMENT.**

**04PS0146:** In Clover Hill Magisterial District, **FIRST COMMONWEALTH CHURCH** requested approval of an amendment to the sign package for Genito Forest Shopping Center in order to re-use the existing sign originally designed for a multi-theater complex. This development is commonly known as **FIRST COMMONWEALTH CHURCH REGAL CENTER**. This request lies in Corporate Office (O-2) and Community Business (C-3) Districts on two (2) parcels totaling 14.13 acres fronting approximately forty (40) feet on the north line of Hull Street Road, also fronting approximately 750 feet on the west line of Woodsong Drive. Tax IDs 744-684-7278 and 744-685-0909 (Sheet 10).

Mr. Gulley stated the leadership of the First Commonwealth Church was in transition and asked if Mr. Twedt would agree to deferral of the request, on the Commission's motion, to the December 16, 2003, Planning Commission meeting to allow the leadership sufficient time to reorganize.

Mr. Allen Twedt, the applicant's representative, was agreeable to the deferral.

No one came forward to speak in favor of, or in opposition to, the deferral.

The following motion was made at Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 04PS0146, First Commonwealth Church (First Commonwealth Church Regal Center), to the December 16, 2003, Planning Commission meeting.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**04TS0154:** In Bermuda Magisterial District, **MILES AND WELLS PARTNERSHIP** requested approval of a tentative plat for ninety-five (95) lots and open space. The request includes permission to delete a thoroughfare road from the project, previously imposed during a previous tentative approval. This development is commonly known as **WELLINGTON FARMS**. This request lies in Residential (R-25) and Agricultural (A) Districts on two (2) parcels totaling 101.65 acres fronting Kriserin Circle, Wellington Farms Drive and Michmar Drive. Tax IDs 782-659-2485 and 2926 (Sheet 26).

Mr. Kurt Hedrick, the applicant's representative, accepted staff's recommendation, with the exception of Condition 15 requiring the construction of a sidewalk to the limits of Ecoff Elementary School from the southern limits of Wellington Cross Way. He voiced opposition to the construction of the walkway based upon the history of the existing walkway, concerns relative to the health, safety and welfare of the younger children who may frequent this walkway; and contended that if the County believed the walkway was a safe path for young unescorted school students, the County could modify the existing walkway to provide any desired access to the school.

No one came forward to speak in favor of, or in opposition to, the request.

Mr. Cunningham stated he had visited the site; felt the applicant had provided sufficient access from his property to the park; and that the applicant's request to not be required to provide the additional sidewalk access was reasonable.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission resolved that approval of a tentative plat for ninety-five (95) lots and open space, including permission to delete the construction of a Thoroughfare Plan road, imposed during a previous tentative approval, from the project, for Case 04TS0154, Miles and Wells Partnership (Wellington Farms), shall be and it thereby was granted, subject to the following conditions and review notes:

#### CONDITIONS

1. Per Section 8-4 of the Erosion Control Ordinance, prior to the issuance of a Land Disturbance Permit, the Environmental Engineering Department shall require copies of applicable correspondence from the USACOE so that it may be determined that all wetland permits have been received. (EE)
2. Any timbering that is to occur as the first phase of infrastructure construction will be incorporated into the project's erosion and sediment control plan narrative and will not commence until the issuance of a land disturbance permit for subdivision construction and proper installation of erosion control measures. (EE)
3. The USACOE jurisdictional wetlands shall be shown on the construction plans and subdivision plat. (EE)
4. Approval of the road and drainage plans by Commonwealth Gas Company in relation to its easement and facilities therein is a prerequisite to construction plan approval by the Environmental Engineering Department. A quit claim to Virginia Department of Transportation (VDOT) or a satisfactory commitment thereof by Commonwealth Gas Company for the location where Michmar Drive right of way will cross the Columbia Gas easement shall be a prerequisite to subdivision plat recordation. (EE)
5. The areas of storm water runoff concentration as discussed in the Environmental Engineering Department tentative report dated October 3, 2003, will be field located and shown on the plans. The construction plans shall designate the affected lots with an NBP and an

engineered storm sewer, filling, grading and drainage plan shall be included in the construction plans. (EE)

6. The subdivider shall post signs demarking the limits of the Resource Protection Area (RPA) so builders and homeowners may be informed as to the limitations imposed on these areas. Specific plans for the exact number and placement of the signs shall be approved by the Environmental Engineering Department. (EE)
7. The erosion and sediment control plan for the project shall call for the placement of polyethylene fence or its equivalent in accordance with STD & SPEC 3.01 of the Virginia Erosion and Sediment Control Handbook along the RPA limits prior to the issuance of a land disturbance permit. (EE)
8. Building envelopes as shown on the tentative plan along with any other directed by the Environmental Engineering Department shall be placed on the construction plans and subdivision plat. (EE)
9. The floodplain as shown on the approved construction plans and the recorded subdivision plat shall be the result of hydrologic and hydraulic engineering methods and assumptions which are approved by the Environmental Engineering Department. (EE)
10. Prior to any further subdivision plat recordation, the roads in Sections C and D shall be taken into the State maintenance system. (EE)
11. Unless otherwise directed by the Environmental Engineering Department, no building permits for lots 76-78 shall be issued until the SWM/BMP facility as ceased its service as a sediment basin, is cleaned out, converted to a BMP and certified in accordance with the most recent Environmental Engineering BMP certification form. (EE)
12. To the extent permitted by the USACOE, the facilities originally installed as sediment basins in the early 1990s shall be dismantled. (EE)
13. The agricultural piece of property shall be rezoned before it is incorporated into the subdivision. This will necessitate reworking the cul-de-sac if recordation is planned for Wellington Farms Terrace. (P)
14. Fox Chappel Road shall be constructed from Chippoke Road to the property line. (F & P)

#### REVIEW NOTES

- A. The portrayal of the RPA limits as shown on the approved tentative plan of Wellington Farms Tentative Case 04TS0154 shall be the RPA limits as shown on the construction plans and subdivision record plat. (EE)
- B. Show building envelopes on all lots that are impacted by wetlands, RPAs and floodplains or do not achieve the required lot width at the minimum setback distance on all final check and



- record plats. (P)
- C. Standard conditions. (P)
  - D. All proffered conditions relating to house size, materials or architecture shall be shown on the final check and record plats. (P)
  - E. Prior to submission of a final check plat please indicate that the Army Corps of Engineers has indicated that permission will be granted to access across wetlands to lots otherwise not accessible. (P)
  - F. The use of the public water and wastewater systems is required by Ordinance. (U)
  - G. It will be the responsibility of the subdivider to make certain that all proposed sections within the development complies with the Chesterfield County Fire Department's required fire flow of 1000 gpm at 20 psi residual. (U)
  - H. Approval of the tentative subdivision is not an approval of the water and/or sewer layout as shown on the subdivider's tentative subdivision plat. The review of the tentative water/sewer layout is being performed to identify any potential controversial problems and to integrate the Utilities Department recommendations as set forth in the latest water/sewer facilities plan in an effort to facilitate a much smoother review of the final design of each section. The subdivider understands that as the final details of each development section are reviewed, the Utilities Department may require changes to the original layout as deemed in the best interest of the County, which ultimately benefits the department's customers as users of public water/sewer systems. (U)
  - I. At the time of construction plan submittal, graphically show and label the water line along Fox Chappel Road as an eight (8) inch water line. In addition, graphically show a sixteen (16) foot sanitary sewer easement along the common property line of Lots 80 and 81 along Michmare Drive. (U)
  - J. All improvements to existing transportation facilities required as a result of the impact of this project shall be the responsibility of the subdivider. Approval of detailed construction plans is a prerequisite to issuance of a land use permit allowing access onto and construction within State maintained rights of way. It should be noted that plan approval at this time does not preclude the imposition of additional requirements at construction plan review. (VDOT)
  - K. All right of way widths as shown are preliminary and should be so noted. Actual widths shall be determined by roadway design per 24 VAC 30-90-150 of the 1996 Subdivision Street Requirements (SSR). (VDOT)
  - L. The design of any/all proposed landscape embellishments (i.e., landscaping, hardscaping, signage, lighting, irrigation, fencing, etc.) to be installed within State maintained rights of way must be submitted to VDOT for review in conjunction with the initial submittal of road construction plans. VDOT approval of said plan must be granted prior to installation. Failure to comply with these requirements may result in the removal of said embellishments prior to

State acceptance. (VDOT)

- M. All roads shall be designed and constructed per current VDOT standards and specifications. (VDOT)
- N. The construction of all roadways which are not defined as arterials or collectors in Chesterfield County's Thoroughfare Plan requires the implementation of a comprehensive inspection program to insure compliance with VDOT standards and specifications. Inspection services shall be provided utilizing one (1) of the following options:
1. The applicant may retain the services of a licensed geotechnical engineer to perform the required inspection and testing, or
  2. The applicant may request that VDOT provide inspection services through the establishment of an accounts receivable with the contractor responsible for providing all required material testing, or
  3. The applicant may request that VDOT accept bonding for a period longer than the standard one (1) year performance bond in lieu of either (1) or (2) above. The additional bonding period shall not exceed five (5) years beyond the standard one (1) year performance bond posted at State acceptance. Surety rates shall be in the amount of \$33 per square foot for man-made fill sections and \$67 per linear foot for trench installations. (VDOT)
- O. Adjustment of the vehicle per day counts on Fox Chappel Road is required to include the projected traffic generated at the "stub" into adjacent property(s). Please note that the road geometrics on Chippoke Road may require modification as a result of the increased traffic volumes. (VDOT)
- P. The terminus of Fox Chappel Road shall be designed as a thirty-five (35) foot edge of pavement radius permanent cul-de-sac (within a minimum fifty (50) foot radius temporary turnaround easement). (VDOT)
- Q. A forty-five (45) foot edge of pavement radius turnaround is required at the cul-de- sac on Chippoke Road per 24 VAC 30-90-240 of the 1996 SSR. A minimum fifty-eight (58) foot right of way radius is required to accommodate the enlarged turnaround at this location. (VDOT)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**D. FIELD TRIP AND DINNER.**

◆ **FIELD TRIP SITE SELECTION:**

The Commission agreed to forego their Field Trip to visit requests sites.

◆ **DINNER LOCATION:**

On motion of Mr. Litton, seconded by Mr. Cunningham, the Commission resolved to meet for dinner at John Howlett's Tavern.

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.

**E. ADJOURNMENT.**

There being no further business to come before the Commission, the 3:00 p. m. Session was adjourned at approximately 3:22 p. m. and Messrs. Litton, Gecker, Cunningham, Gulley, Stack and staff departed the Public Meeting Room, agreeing to meet at 5:00 p. m. at John Howlett's Tavern for dinner.

During dinner, there was discussion pertaining to various rezoning and Conditional Use request sites.

**7:00 P. M. EVENING SESSION**

At approximately 7:03 p. m., Mr. Litton, Vice-Chairman, called the Evening Session to order, noting that Mr. Gecker would not be present.

**A. INVOCATION.**

Mr. Cunningham presented the invocation.

**B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.**

Mr. Poole led the Pledge of Allegiance to the Flag.

**C. REVIEW MEETING PROCEDURES.**

Mr. Jacobson apprised the Commission of the upcoming agendas, noting that the November 18, 2003, agenda was comprised of twelve (12) cases; the December 16, 2003, agenda had a total of fifteen (15) cases, the January 20, 2004, agenda had a total of three (3) cases; the Planning Commission had scheduled a Special Work Session on October 27, 2003, to discuss the draft Public Facilities Plan and the Affordable Housing Element in the Comprehensive Plan; and the Commission had also scheduled a Special Work Session/Public Hearing on November 10, 2003, to consider Substantial Accord Determinations for Three (3) School Sites.

**D. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

**E. CONSIDERATION OF THE FOLLOWING REQUESTS:**

◆ **REQUEST FOR WITHDRAWAL – CONDITIONAL USE.**

**03SN0295:** In Midlothian Magisterial District, **OMNIPOINT/T-MOBILE** withdrew consideration of Conditional Use Planned Development and amendment of zoning district map to permit a communications tower in a Residential (R-15) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for low density residential use. This request lies on 0.1 acre fronting approximately twenty (20) feet on the east line of West Huguenot Road, approximately 250 feet north of Scherer Drive. Tax ID 757-722-Part of 1650 (Sheet 3).

No one came forward to represent the request.

The Commission indicated the applicant's representative had been advised his presence at the meeting was not necessary.

There was no opposition to the withdrawal.

On motion of Mr. Gulley, seconded by Mr. Cunningham, the Commission acknowledged withdrawal of Case 03SN0295.

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT: Mr. Gecker.

◆ **REQUESTS FOR DEFERRAL BY INDIVIDUAL COMMISSIONERS – REZONINGS and CONDITIONAL USE.**

**02SN0296:** (Amended) In Bermuda Magisterial District, **TED A. WILLIAMS, THOMAS A. WILLIAMS, GRACE M. WILLIAMS TRUST AND GEORGE P. EMERSON, JR.** requested rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3) of 19.0 acres plus proffered conditions on 1.4 acres currently zoned Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for neighborhood mixed use. This request lies on 20.4 acres fronting approximately 850 feet on the south line of East Hundred Road, across from Rivers Bend Boulevard. Tax IDs 815-651-3676 and 7189 and 815-652-2337, 3334, 3521 and 4930 (Sheet 27).

Mr. Dean Hawkins, the applicant's representative, stated he was uncertain why the request was being deferred and indicated his client wished to proceed.

Mr. Cunningham stated there were still some issues to be addressed and area residents with whom he wished to meet before taking action on this request and, therefore, he wished to defer Case 02SN0296, on his own motion, to the November 18, 2003, Planning Commission public hearing.

Mr. George Emerson, Jr., one of the applicants, stated he was unaware of any opposition to the request and wished to proceed with either a favorable or unfavorable recommendation from the Commission.

Mr. Cunningham stated that no community meetings had been conducted; he felt a deferral was necessary; and action would be taken on the request in November.

The following motion was made at Mr. Cunningham's request.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission, on their own motion, resolved to defer Case 02SN0296 to the November 18, 2003, Planning Commission public hearing.

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT: Mr. Gecker.

**03SN0316:** In Midlothian Magisterial District, **JAMES DORAN CO.** requested rezoning and amendment of zoning district map from Agricultural (A), Community Business (C-3) and General Business (C-5) to Community Business (C-3) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for suburban commercial and planned transitional uses. This request lies on 33.9 acres fronting approximately 1,400 feet on the north line of Midlothian Turnpike approximately 400 feet west of Winterfield Road, also fronting approximately 900 feet on the west line of Winterfield Road approximately 550 feet north of Midlothian Turnpike. Tax IDs 724-709-2311, 2528, 4210, 5831, 6911, 7661 and 9121; and 725-709-1125 (Sheet 5).

Mr. William Shewmake, the applicant's representative, stated he understood Mr. Gecker's reasons for wanting to defer the request; however, his client had specific contractual obligations and deferral of the case would jeopardize the project. He asked the Commission to consider amending their By-Laws to add the case to their November 18, 2003, agenda.

Mr. Gulley indicated guidance from Mr. Gecker had been that he wished to defer the request for sixty (60) days.

Mr. Shewmake stated he understood Mr. Gecker's position but did not wish to defer the request at all. He indicated, however, a thirty (30) day deferral would jeopardize the project less than a sixty (60) day deferral.

Mr. Gulley stated he did not have a problem with deferring the request for thirty (30) days; however, he wished to point out that, although he understood everyone's position, a thirty (30) day deferral could be risky, if all issues were not resolved within that timeframe and further deferrals were necessary in the future.

Mr. Shewmake indicated he understood the potential risks; however, he could not accept a ninety (90) day deferral, noting that even a thirty (30) day deferral could jeopardize the project.

There was no opposition to the deferral.

The following motion was made at Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Stack, the Commission, on their own motion, resolved to defer Case 03SN0316 to the November 18, 2003, Planning Commission public hearing.

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT: Mr. Gecker.

◆ **REQUESTS FOR DEFERRAL BY APPLICANTS - REZONINGS and CONDITIONAL USES.**

**03SN0329:** In Midlothian Magisterial District, **LEWIS W. COMBS, JR. AND JAMES F. STEPHENS** requested deferral to November 18, 2003, of consideration for rezoning and amendment of zoning district map from Residential (R-40) to Residential (R-15) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 2.9 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for medium density residential use of 1.51 to 4.0 units per acre. This request lies on 10.7 acres fronting approximately 330 feet on the south line of Robious Road across from Sandhurst Lane and lying at the western terminus of Auger Lane. Tax IDs 735-716-7163 and 8642 (Sheet 2).

No one came forward to represent the request.

Staff indicated the applicant had submitted written documentation requesting deferral to the November 18, 2003, Planning Commission public hearing.

There was no opposition to the deferral.

Mr. Gulley stated guidance from Mr. Gecker was for a ninety (90) day deferral; therefore, in addition to the applicant's request for thirty (30) days, he would add sixty (60) days on the Commission's motion.

The following motion was made at the applicant's and Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Stack, the Commission resolved to defer Case 03SN0329 for thirty (30) days at the applicant's request and for sixty (60) days, on the Commission's motion, for a total of ninety (90) days, to the January 20, 2004, Planning Commission public hearing.

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT: Mr. Gecker.

**04SN0115:** In Bermuda Magisterial District, **CESARE M. EVOLA AND TERESA B. EVOLA** requested deferral to November 18, 2003, of consideration for rezoning and amendment of zoning district map from Agricultural (A) to Neighborhood Business (C-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for neighborhood mixed use. This request lies on 0.2 acre lying approximately 240 feet off the north line of West Hundred Road, measured from a point across from Inge Road. Tax ID 814-652-Part of 7994 (Sheet 27).

No one came forward to represent the request.

Mr. Cunningham stated he had discussed deferral of Case 04SN0115 with Mr. Jeff Collins, the applicant's representative, and was comfortable deferring the request to the November 18, 2003, Planning Commission public hearing, even though no one was present to represent the request, pointing out there was written documentation in the case file requesting deferral of the case.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission resolved to defer Case 04SN0115 to the November 18, 2003, Planning Commission public hearing.

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT: Mr. Gecker.

**03SN0288:** In Matoaca Magisterial District, **DOUGLAS R. SOWERS** requested deferral to January 20, 2004, of consideration for rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-25) to Community Business (C-3) with Conditional Use to allow multi-family residential use and Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use and for residential use of 2.0 units per acre or less. This request lies on 117.8 acres fronting in two (2) places for approximately 1,850 feet on the south line of Old Hundred Road, approximately 750 feet east of Otterdale Road and in two (2) places for approximately 725 feet on the east line of Otterdale Road, approximately 1,200 feet south of Old Hundred Road. Tax IDs 716-696-9418 and 9559; 717-695-0722; 717-696-1097; and 718-696-7128 (Sheet 9).

Mr. John Easter, the applicant's representative, requested deferral to the January 20, 2004, Planning Commission public hearing. He referenced the upcoming caseload agendas, noting he felt the manner in which cases were moved/bumped from one agenda to another was problematic and indicated he would like to discuss the matter with the Commission.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to defer Case 03SN0288 to the January 20, 2004, Planning Commission public hearing.

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT: Mr. Gecker.

◆ **REQUESTS WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION PRESENT – SUBSTANTIAL ACCORD, REZONINGS AND CONDITIONAL USES.**

**04SN0103:** In Matoaca Magisterial District, **GARY COLLINS** requested Conditional Use and amendment of zoning district map to permit a model home in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 2.0 acres fronting approximately 450 feet on the west line of Hensley Road, approximately 1,300 feet north of Brandy Crest Drive. Tax ID 726-662-Part of 2430 (Sheet 23).

Mr. Gary Collins, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Stack, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 04SN0103, subject to the following conditions:

#### CONDITIONS

1. A temporary model home shall be permitted in a modular unit provided such unit shall be utilized for a maximum of 180 days from the date of approval of this request. At the end of the 180 days, the temporary sales trailer shall be removed and the temporary model home may be located within a permanent dwelling on the property. (P)
2. The model home shall only be used to market the development (Collington Subdivision) in which it is located and shall not be used for the sale of lots or houses outside of the development (Collington Subdivision) in which it is located. (P)
3. The model home shall not be the primary real estate office for the company marketing the development. (P)
4. The model home shall be incidental to construction activity taking place within the development (Collington Subdivision). (P)

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT Mr. Gecker.

**04SN0108:** In Matoaca Magisterial District, **THE CHESDIN COMPANY, L.L.C. AND FIVE FORKS CORPORATION** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-25) to Residential (R-88) with Conditional Use to allow private recreational facilities on 5.0 acres of the 468.5 acre site. Residential use of up to 0.5 unit per acre is permitted in a Residential (R-88) District. The Comprehensive Plan suggests the property is appropriate for residential use on 1-5 acre lots, suited to R-88 zoning. This request lies on 468.5 acres fronting approximately 700 feet on the south line of Ivey Mill Road, approximately 400 feet east of Chesdin Landing Drive. Tax IDs 741-625-Part of 0241; 741-627-1721; 742-624-9671; and 745-622-Part of 6373 (Sheet 39).

Ms. Ashley Harwell, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 04SN0108 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

The Applicants (the "Applicants") in this zoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffers that the development of the property known as Chesterfield County Tax Identification



Numbers 741-625-0241 (part), 741-627-1721, 742-624-9671 and 745-622-6373 (part) (the "Property") under consideration will be developed according to the following conditions if, and only if, the rezoning request for R-88 with Conditional Use is granted. In the event the request is denied or approved with conditions not agreed to by the Applicants, the proffers and conditions shall immediately be null and void and of no further force or effect. If the zoning is granted, these proffers and conditions will supersede all proffers and conditions now existing on the Property.

1. Timbering. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department. (EE)
2. Number of Lots. No more than 149 single family residential lots shall be developed on the Property. (P)
3. Manufactured Homes. Manufactured homes shall not be permitted on the Property. (P)
4. Covenant Regarding Manufactured Homes. The following shall be recorded as restrictive covenants in conjunction with recordation of any subdivision plat for the Property: "No manufactured homes shall be allowed to become a residence, temporary or permanent." (P)
5. Cash Proffer. For each single family residential dwelling unit developed on Tax IDs 741-625-0241 (part), 741-627-1721 and 742-624-9671, and for each single family dwelling unit developed in excess of 20 on or bisected by the southern (and/or) western boundary of Tax ID 745-622-6373 (part), the applicant, subdivider, or assignee(s) shall pay \$9,000.00 per unit to the County of Chesterfield, prior to the time of issuance of a building permit, for infrastructure improvements within the service district for the Property if paid prior to July 1, 2003. Thereafter, such payment shall be the amount approved by the Board of Supervisors not to exceed \$9,000.00 per unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2002 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003. If any of the cash proffers are not expended for the purposes designated by the Capital Improvement Program within fifteen (15) years from the date of payment, they shall be returned in full to the payor. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not in addition to, any impact fees in a manner as determined by the County. (B&M)
6. Dedication of Right-of-Way. In conjunction with recordation of the initial subdivision plat, thirty-five (35) feet of right-of-way along the south side of Ivey Mill Road, measured from the centerline of that part of Ivey Mill Road immediately adjacent to the Property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
7. Access. Direct access from the Property to Ivey Mill Road shall be limited to no more than one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)

8. Road Improvements. To provide an adequate roadway system, the developer shall be responsible for the following improvements:
  - a. If direct access is provided to the Property from Ivey Mill Road, construction of additional pavement along Ivey Mill Road at the approved access to provide left and right turn lanes, based on Transportation Department standards.
  - b. Dedication to and for the benefit of Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. (T)
9. Phasing Plan. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 8, shall be submitted to and approved by the Transportation Department. (T)
10. Private Recreation Facilities. Private recreation facilities shall be permitted on up to five (5) acres within the Property, subject to the following requirements:
  - a. Development of private recreational facilities on the Property shall be limited to indoor/outdoor recreational uses only such as club houses, a private boat launch facility, swimming pools, tennis or other court facilities, playfield and associated recreational facilities.
  - b. A fifty (50) foot buffer shall be provided along the non-waterfront perimeter of all active recreational facilities, including but not limited to boat launches, except where adjacent to any existing or proposed road. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
  - c. Boat launches, outdoor playfields, courts, swimming pools and similar active recreational areas shall be set back a minimum of 100 feet from any proposed or existing single family residential lot line and a minimum of fifty (50) feet from any existing or proposed public road. Nothing herein shall prevent the development of any indoor facilities and/or parking within the 100 foot setback. (P)

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT Mr. Gecker.

**04SN0109:** In Bermuda Magisterial District, **PINEY BRANCH DEV CO** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) and relief to street access requirement. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0 to 2.5 units per acre. This request lies on 8.2 acres fronting approximately 355 feet on the south line of Carver Heights Drive, approximately 165 feet west of Branders Bridge Road. Tax ID 781-650-Part of 8726 (Sheet 26).

Mr. Jacobson noted that the request for relief to the street access requirements had been withdrawn.

Ms. Tamsun Watson, the applicant's representative, accepted staff's recommendation.

Mr. George Cook, an adjacent property owner to the east, expressed concerns relative to drainage and asked that the current zoning not be changed.

Mr. McElfish addressed drainage concerns, noting the development process took all aspects of drainage impacts into consideration to preclude negative impacts to adjacent properties.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission acknowledged withdrawal of the requested exception for the street access requirement and Proffered Condition 3 and resolved to recommend approval of Case 04SN0109 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

1. The public water and wastewater system shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following to the county of Chesterfield prior to the issuance of building permit for infrastructure improvements within the service district for the property:
  - A. \$9,000.00 per dwelling unit, if paid prior to July 1, 2003; or
  - B. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003.
  - C. In the event the cash payment is not used for which proffered within fifteen (15) years of receipt, the cash shall be returned in full to the payor. (B&M)
3. The maximum density of this development shall not exceed twenty (20) lots. (P)
4. Direct access from the property to Carver Heights Drive shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
5. In conjunction with recordation of the initial subdivision plat, forty five (45) feet of right-of-way along the southern line of Carver Heights Drive, measured from the centerline of that part of Carver Heights Drive immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)

AYES: Messrs. Litton, Cunningham, Gulley and Stack.

ABSENT Mr. Gecker.

**04SN0114:** In Dale Magisterial District, **BALZER & ASSOC. INC.** requested amendment to zoning (Case 97SN0269) and amendment of zoning district map relative to tree preservation strip. The Comprehensive Plan suggests the property is appropriate for residential use of 1 to 2.5 units per acre. This request lies in a Residential (R-9) District on 0.3 acre and is known as 9636 Lockberry Ridge Loop. Tax ID 779-665-9486 (Sheet 26).

Ms. Kristin Keatley, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Litton, seconded by Mr. Stack, the Commission resolved to recommend approval of Case 04SN0114 and acceptance of the following proffered condition:

PROFFERED CONDITION

A twenty-four (24) foot tree preservation strip shall be maintained along the southern property line adjacent to the existing residential lots within Salem Woods, Section "E". All trees eight (8) inches in caliper or greater shall be retained except that dead, diseased or dying trees eight (8) inches or greater in caliper may be removed. This tree preservation area shall be exclusive of easements. For lots adjacent to existing residential lots within Salem Woods, Section "E", a minimum rear yard setback of 25 feet (R-12 standard) shall be provided exclusive of the tree preservation strip. (P)

(Staff Note: This proffered condition supersedes Proffered Condition 15 of Case 97SN0269 for the request property only.)

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT Mr. Gecker.

**04SN0116:** In Matoaca Magisterial District, **SWIFT CREEK PARTNERS, LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use to permit recreational facilities. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 18.7 acres fronting approximately 825 feet on the south line of Woolridge Road, approximately 1,600 feet west of Fox Club Road. Tax ID 712-676-4582 (Sheet 15).

Mr. Jack Wilson, the applicant's representative, accepted staff's recommendation.

There was opposition present; therefore, it was, the consensus of the Commission to place Case 04SN0116 with those cases requiring discussion.

Mr. Jacobson stated that Case 04SN0116 would be moved to the first case on the Contested Agenda.

Mr. Gulley requested that Case 03SN0162, Ron Wheeler remain as the first case to be heard on the Contested Agenda, with Case 04SN0116 being the next case in sequence.

On motion of Mr. Gulley, seconded by Mr. Stack, the Commission amended the agenda to leave Case 03SN0162, Ron Wheeler as the first case to be heard on the Contested Agenda, with Case 04SN0116 being the next case in sequence.

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT Mr. Gecker.

**03SN0318:** In Bermuda Magisterial District, **BERMUDA TRIANGLE PROPERTY, L.P.** requested rezoning and amendment of zoning district map from Agricultural (A) to General Industrial (I-2) on 16.2 acres with Conditional Use Planned Development to permit exceptions to Ordinance requirements on this property and an adjacent 14.2 acre parcel currently zoned General Industrial (I-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 30.4 acres fronting approximately sixty-five (65) feet on the east line of Old Stage Road and lying at the western terminus of Battery Dantzler Road. Tax IDs 803-655-7389, 803-656-9752 and 804-655-0597 and 2647 (Sheet 27).

Mr. Dean Hawkins, the applicant's representative, accepted staff's recommendation.

Mr. Glenn Morgan, an attorney representing adjacent property owners, requested the applicant provide trees and landscaping to buffer his client's property from the request site.

Mr. Hawkins indicated he was agreeable to providing buffers outside the right of way.

On motion of Mr. Cunningham, seconded by Mr. Stack, the Commission resolved to recommend approval of Case 03SN0318, subject to the following conditions and acceptance of the following proffered conditions:

#### CONDITIONS

1. In conjunction with approval of this request, an exception shall be granted to allow uses and accessory uses on this property to be located a minimum of fifty (50) feet from Tax IDs 803-655-7579, 7963 and 8949 and 803-656-5830 until such time as those parcels are zoned for similar uses. (P)
2. Development shall not occur on the portion of the property east of the power lines and adjacent to the James River unless a hard-lined conveyance system is constructed to the James River. (EE)

#### PROFFERED CONDITIONS

1. The public water and wastewater systems shall be used. (U)
2. Prior to any site plan approval, a sixty (60) foot wide right-of-way for a public road ("Battery Dantzler Road Extended") from the current terminus of Battery Dantzler Road to Old Stage Road shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. The exact location of this right-of-way shall be approved by the Transportation Department. (T)
3. Direct access from the property to Old Stage Road shall be limited to Battery Dantzler Road Extended. (T)
4. To provide for an adequate roadway system, the developer shall be responsible for the

following road improvements:

- a. Construction of two (2) lanes of Battery Dantzler Road Extended from its current terminus to Old Stage Road;
  - b. Construction of additional pavement along Old Stage Road at the Battery Dantzler Road Extended intersection to provide right and left turn lanes based on Transportation Department standards; and
  - c. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the above improvements. (T)
5. Prior to any site plan approval, a phasing plan for the required road improvements as identified in Proffered Condition 4 shall be submitted to and approved by the Transportation Department. The approved phasing plan shall require construction of Battery Dantzler Road Extended from its current terminus to Old Stage Road, as identified in proffered condition 4.a, prior to the issuance of a certificate of occupancy. (T)
  6. Upon the request of the Chesterfield County Department of Parks and Recreation, the Owner shall dedicate a minimum 100-foot wide, perpetual open-space access easement along the James River frontage, to the County of Chesterfield, running generally parallel to the James River. (P&R)

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT Mr. Gecker.

**04PD0126:** In Dale Magisterial District, **CHESTERFIELD COUNTY PARKS AND RECREATION DEPARTMENT** requested Substantial Accord Determination to permit a public park on 154.2 acres fronting in four (4) areas for approximately 680 total feet on the north line of Jessup Road, north of Zion Hill Church Road and Jessup Meadows Drive and also fronting approximately seventy (70) feet on the east line of Turner Road, approximately 715 feet north of Jessup Road. Tax ID 773-688-0410 (Sheet 11).

Mr. Mike Golden, representing the request, accepted staff's recommendation.

Mr. Donald Creech, an adjacent property owner, voiced opposition to the request, expressing concerns relative to devaluation of his property and asked that a buffer be installed around his property to protect against encroachment and trespassing.

There was opposition present; therefore, it was the consensus of the Commission to place Case 04PD0126 with those cases requiring discussion.

◆ **CODE AMENDMENT RELATING TO CIVIL PENALTIES.**



An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Section 19-6 relating to civil penalties and providing for a penalty. This amendment would increase the maximum fines for zoning violations governed by civil penalties.



Mr. Poole presented an overview of the proposed Code Amendment relating to civil penalties and staff's recommendation.

No one came forward in support of, or in opposition to, the proposed Code Amendment.

On motion of Mr. Gulley, seconded by Mr. Cunningham, the Commission resolved to recommend approval of the following Code Amendment:

(1) *That Section 19-6 of the Code of the County of Chesterfield, 1997, as amended, is amended and re-enacted to read as follows:*

**Sec. 19-6. Civil penalties for certain violations.**

(a) Any violation of the following provisions shall be punishable by a civil penalty of not more than \$100.00 for the initial summons and not more than ~~\$150.00~~ 250.00 for each additional summons:

- (1) Operation of a business that is not a home occupation, on a lot or parcel inside or outside of a dwelling unit or accessory building, in any R, R-TH, R-MF or A district, without a special exception or conditional use.
- (2) Violation of any condition of zoning and development approvals and substantial accord approvals for which a public hearing does not occur that relates to the hours of operation of the use of land or that relates to reduction or control of noise from the use of land.

(b) Each day during which any violation of subsection (a) exists shall constitute a separate violation. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of ~~\$3,000.00~~ 5,000.00.

(c) The designation of a particular violation of this section as an infraction pursuant to subsection (a) shall be in lieu of criminal sanctions, and except for any violation resulting in injury to any person or persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.

(d) The director of planning shall cause one copy of a summons to be personally served upon persons violating the provisions of subsection (a).

(e) Such summons shall contain the following information:

- (1) The name and address of the person charged.
- (2) The nature of the infraction and the ordinance provision(s) being violated.
- (3) The location, date and time that the infraction occurred or was observed.

- (4) The amount of the civil penalty assessed for the infraction.
- (5) The manner, location and time in which the civil penalty may be paid to the county.
- (6) The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.

(f) The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the county treasurer at least 72 hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court. However, an admission shall not be deemed a criminal conviction for any purpose.

(g) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law or equity and it shall be the county's burden to prove the violator's liability by a preponderance of the evidence. A finding of liability shall not be deemed a criminal conviction for any purpose.

(h) The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law or equity.

(2) *That this ordinance shall become effective immediately upon adoption. (1923:62858.1)*

AYES: Messrs. Litton, Cunningham, Gulley and Stack.

ABSENT: Mr. Gecker.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT – REZONINGS AND CONDITIONAL USES.**

**03SN0162:** In Clover Hill Magisterial District, **RON WHEELER** requested rezoning and amendment of zoning district map from Corporate Office (O-2) to Multifamily Residential (R-MF) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to ten (10) units per acre is permitted in a Multifamily Residential (R-MF) District. The Comprehensive Plan suggests the property is appropriate for mixed use corridor use. This request lies on 8.4 acres fronting approximately 670 feet on the east line of Pocoshock Boulevard approximately 950 feet north of Hull Street Road. Tax IDs 762-695-6591; 762-696-6401 and 6412; and 763-696-Part of 0005 (Sheet 11).

Ms. Orr presented an overview of the request and staff's recommendation for denial, noting the proposed zoning and land use did not comply with the Route 360 Corridor Plan; the application failed to provide for the typical development standards necessary to insure a quality higher density development with amenities; and some of the requested exceptions, such as those related to provisions for sidewalks and buffer and building setback reductions from property lines, were inappropriate given the higher density of development and the need to offset the impact on adjacent single family residential development, as well as future residents within this development.



Mr. Andy Scherzer, the applicant's representative, did not accept staff's recommendation; presented handouts depicting the layout of the site; cited the compatibility of other area development to the proposed project; and indicated the development was viewed as an opportunity for residents to remain in their neighborhoods and would provide a growing service need in communities.

Mr. Roy Jesse, an adjacent property owner, expressed concerns relative to access to the site being located directly in front of his property and asked that the access be relocated to another part of the property; that the density of the project was excessive and inappropriate for the community; increased traffic; light intrusion; the use of public address systems; and asked that the developer be required to conduct a traffic count on Pocoshock Boulevard.

In response to questions from the Commission, Messrs. McCracken and McElfish addressed transportation and drainage issues, respectively.

Mr. William Gwaltney, one of the property owners, supported the request, noting the partnership had made a considerable effort to place a quality project in the community and had done the best they could with the project.

In rebuttal, Mr. Scherzer addressed the previously expressed concerns, noting the applicant was striving to provide a quality project that would be beneficial to the community and provide a growing service.

Mr. Gulley outlined two (2) conditions he wished to impose, one relating to the Textual Statement becoming a condition of zoning and the second condition requiring that Mr. Jesse be notified when the Site Plan was filed so he could review it.

Mr. Scherzer stated the conditions were acceptable.

There was discussion relative to road improvements to construct additional pavement along Pocoshock Boulevard at the public road intersection to provide a right turn lane; relocation of the ditch along Pocoshock Boulevard to provide an adequate shoulder for the entire property frontage; drainage; and other concerns.

Mr. Loc Pfeiffer, President of the Gateway Association, supported the request, noting the development would benefit not only Surreywood but also the County overall.

In response to Mr. Gulley's recommended condition relative to requiring that Mr. Jesse be notified when the Site Plan was filed so he could review it, staff indicated the Ordinance required such notification.

Mr. Gulley stated he had met with members of the Surreywood community, the Gateway Association and the Route 360 Corridor Committee and was satisfied their concerns had been addressed; felt the project was an appropriate use for the area and did not contradict the area Plan; and was supported by the community.

On motion of Mr. Gulley, seconded by Mr. Stack, the Commission resolved to recommend approval of Case 03SN0162, subject to the following condition and acceptance of the following proffered conditions:

#### CONDITION

With the approval of this request, the Textual Statement revised September 18, 2003, is approved. (P)

## PROFFERED CONDITIONS

1. Public water and wastewater shall be used. (U)
2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the county of Chesterfield prior to the issuance of building permit for infrastructure improvements within the service district for the property:
  - A. \$4,815.00 per dwelling unit, if paid prior to July 1, 2003. At the time of payment, the \$4,815.00 will be allocated pro-rata among the facility costs as follows: \$598.00 for parks and recreation, \$324.00 for library facilities, \$3,547.00 for roads, and \$346.00 for fire stations; or
  - B. The amount approved by the Board of Supervisors not to exceed \$4,815.00 per dwelling unit pro-rated as set forth above and adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003.
  - C. In the event the cash payment is not used for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
3. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
4. Direct access from the property to Pocoshock Boulevard shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
5. Prior to any site plan approval, thirty-five (35) feet of right-of-way on the east side of Pocoshock Boulevard, measured from a revised centerline based on VDOT Urban Collector standards (forty (40) miles per hour) as approved by the Transportation Department, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
6. To provide an adequate roadway system at the time of complete development, the owner/developer shall be responsible for the following:
  - a. Construction of additional pavement along Pocoshock Boulevard at the approved access to provide a right lane, if warranted, based on Transportation Department standards;
  - b. Relocation of the ditch to provide an adequate shoulder along the east side of Pocoshock Boulevard for the entire property frontage;

- c. Dedication to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for the improvements identified above. (T)
7. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 6, shall be submitted to and approved by the Transportation Department. (T)
8. All impervious areas shall drain to the southeastern and/or the southwestern portion(s) of the property. In addition, the drainage system shall be designed to capture runoff from the properties to the north, to the extent practical as determined by the Department of Environmental Engineering. If a retention pond or any water quality pond is provided above ground, such pond shall be designed as a wet pond. (EE)
9. Age restriction: Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Housing Law, and such other applicable federal, state, or local legal requirements, dwelling units shall be restricted to "housing for older persons" as defined in the Virginia Fair Housing Law and shall have no persons under 19 years of age domiciled therein ("Age-Restricted Dwelling Units"). (P)
10. Virginia Condominium Act: All dwelling units on the Property shall be condominiums as defined and regulated by the Virginia Condominium Act, and all common areas and improvements therein shall be maintained by a condominium association. (P)
11. Open space/recreation area shall be provided as generally depicted on the Master Plan, prepared by Balzer & Associates, Inc., including a minimum of 0.47 acres in an area adjacent to the clubhouse to provide a "focal point" to the project. Part of the area shall be "hardscaped" and have other amenities that accommodate and facilitate gatherings. The exact design and location shall be approved by the Planning Department at the time of site plan review. The clubhouse building and its related recreational amenities shall be developed concurrent with the first phase of development. (P)
12. Development of the property shall be in substantial conformance with the architectural appearance shown on the elevations attached hereto as Exhibit "A" with respect to the materials depicted, which are brick or stone veneer, composition, hardiplank or vinyl siding, and 20-year asphalt roof shingles. Development of the property shall generally conform to the Master Plan with respect to the general location of the clubhouse building, open spaces, the orientation of buildings such that the number of garage doors opening to any individual street are minimized, and the clustering of buildings. The location of roads, access, driveways and parking areas need not be exactly as shown on the Master Plan; however, the concepts of the Plan shall be generally adhered to such as the orientation of dwelling units to one another, to open spaces, and to rights of way. (P)
13. Restriction on Children's Play Facilities: The common area recreational amenities shall not include playground equipment, play fields or other facilities primarily associated with children's play. Adult facilities including, but not limited to, putting greens, shuffleboard, picnic and

barbecue areas and gardens shall be permitted. No swimming pools, basketball courts or tennis courts will be permitted. (P)

14. Density: There shall be no more than forty-four (44) units developed on the Property. (P)
15. All roads that accommodate general traffic circulation through the development (the "Public Roads"), as determined by the Transportation Department, shall be designed and constructed to VDOT standards and taken into the State System. Setbacks from the Public Roads shall be as identified for special access streets pursuant to Section 19-505(b) of the Zoning Ordinance. Prior to any site plan approval, forty (40) foot wide rights of way for the Public Roads shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. Prior to the issuance of an occupancy permit unless otherwise approved by the Transportation Department, the Public Roads shall be constructed and approved for State acceptance, as determined by the Transportation Department. (T)
16. Sidewalks shall be provided along all interior streets generally as shown on the Master Plan. The treatment and location of these sidewalks and the pedestrian trail shall be approved by the Planning Department at the time of site plan review. (P)
17. Street trees in accordance with the requirements of the Zoning Ordinance shall be installed along each side of the interior roads and common driveways to include entrance roads from public roads into the development. If existing trees are maintained, they may be counted toward this requirement. (P)
18. Landscaping shall be provided around the perimeter of all buildings, between buildings and driveways, within medians, and within common areas not occupied by recreational facilities or other structures. Landscaping shall comply with the requirements of the Zoning Ordinance Sections 19-516 through 19-518(f). Within the setback along Pocoshock Boulevard, a landscape berm shall be installed in such a way as to minimize the view of the garage doors from Pocoshock Boulevard. Landscaping shall be designed to: minimize the predominance of building mass and paved areas; define private spaces; and enhance the residential character of the development. The Planning Department, at the time of site plan review, shall approve the landscaping plan with respect to the exact numbers, spacing, arrangement and species of plantings. Landscaping along Pocoshock Boulevard shall, at a minimum, comply with the requirements of Section 19-518(g)(4) of the Zoning Ordinance for Perimeter Landscaping C, Option I. Decorative fencing shall be installed as follows: 1) generally parallel to Pocoshock Boulevard within the front setback and 2) on the proposed property line adjacent to the existing office building parking lot. Landscaped areas and sodded lawns shall be irrigated. (P)
19. Light poles shall have a maximum height of fifteen (15) feet. (P)
20. A six (6) foot solid fence shall be installed generally adjacent to GPIN 763-696-8950. This fence shall be constructed of vinyl/PVC resin. The exact design and treatment shall be approved at the time of site plan review. (P)
21. Visitor parking to accommodate overflow parking for attached dwelling units shall be provided in the residential development and shall provide a minimum of six (6) parking spaces. The

exact treatment and location of the visitor parking shall be addressed at the time of site plan review. (P)

22. No dwelling unit shall exceed a height of one story. (P)
23. Common areas which are not contained within units and public road right-of-ways shall conform to the requirements of 19-559 of the Zoning Ordinance provided however, that required information shall be submitted as a part of the site plan process. (P)
24. Restrictive Covenants. The following provisions shall be contained in restrictive covenants which shall be recorded. Further, the following provisions in the restrictive covenants shall not be modified or amended for a period of at least twenty (20) years following recordation:
  - 1) No unit shall be used except for residential purposes.
  - 2) No accessory buildings shall be erected, placed, or permitted on the premise.
  - 3) No fences shall be erected on any portion of the property except in accordance with the approved site plans and specifications for construction, and is further controlled through the proffered conditions of the rezoning.
  - 4) No noxious or offensive activity shall be carried on upon by any resident, nor shall anything be done thereon which may be, or become, an annoyance or nuisance to the neighborhood.
  - 5) No structure of a temporary character, trailer, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently, and to this end, any building to be constructed in this development shall be completed within one year from the issue date of it's building permit.
  - 6) NO CAMPERS, HOUSE TRAILERS, OR BOATS SHALL BE PARKED on the premise. No skateboard platforms, large dish television antennae (exceeding two feet in diameter), or television or radio towers shall be placed on the premise. No dish television antennae shall be visible from the street for the respective residence.
  - 7) No sign of any kind shall be displayed to the public view on any yard except one professional sign of not more than three square feet and one sign of not more than five square feet advertising the property for sale, and one sign of not more than five square feet by a builder to advertise the property during the construction and sales period.
  - 8) No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept therein if they are not kept, bred, or maintained for any commercial purposes.

- 9) No part of this development shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. No rubbish, trash, garbage, and other waste shall be kept by any unit except in sanitary containers, and all equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No central dumpsters shall be provided.
- 10) Each and every covenant and condition herein imposed may be enforced by the undersigned or by the owner of any unit by appropriate proceedings at law or in equity against any party violating or attempting or threatening to violate the same to prevent or rectify such violation and to recover damages therefore.
- 11) The covenants and conditions herein contained shall run with the land and shall be binding upon the subsequent owner or owners of all or any unit and each and every portion of the land shown on the plat and all parties claiming through or under such owner or owners.
- 12) All dwelling units shall have washer and dryer hookups.
- 13) All residential dwelling units shall have an attached garage containing a minimum of 200 gross square feet.
- 14) A mandatory homeowners' association shall be created that shall be responsible for the maintenance of yards and exteriors of residential dwelling units.
- 15) Age restriction: Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Housing Law, and such other applicable federal, state, or local legal requirements, dwelling units shall be restricted to "housing for older persons" as defined in the Virginia Fair Housing Law and shall have no persons under 19 years of age domiciled therein ("Age-Restricted Dwelling Units"). (P)

AYES: Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT: Mr. Gecker.

The Commission recessed at approximately 8:37 p. m.

The Commission reconvened at approximately 8:45 p. m.

Mr. Jacobson recalled Case 04SN0116, Swift Creek Partners, LLC.

**04SN0116:** In Matoaca Magisterial District, **SWIFT CREEK PARTNERS, LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use to permit recreational facilities. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 18.7 acres fronting approximately 825 feet on the south line of Woolridge Road, approximately 1,600 feet west of Fox Club Road. Tax ID 712-676-4582 (Sheet 15).

Mr. Clay presented an overview of the request and staff's recommendation.

Mr. Jack Wilson, the applicant's representative, accepted staff's recommendation.

Mr. Greg Blake, representing the Foxcroft Homeowners Association; Mr. Jay Mashaw, a Foxcroft Subdivision resident; Ms. Brenda Stewart, a Matoaca District resident and member of the Upper Swift Creek Task Force; Mr. Tom Pakuar, a Clover Hill District resident and member of Hands Across the Lake; and Ms. Jodie Felice, a Foxcroft Subdivision resident and member of the Upper Swift Creek Task Force, opposed the request, expressing concerns relative to adjacent homeowners in Case 02SN0259 not being included in the notification process as were adjacents to this request (Case 04SN0116), given the nature of the cases and the fact that the applicant was the same in both cases; the applicant's failure to submit written proffers agreeing to forego the connection of the western terminus of Foxclub Parkway with the proposed Fox Creek Subdivision, as was implied by the applicant to be his intent at the October 9<sup>th</sup> informational meeting conducted with the Foxcroft Board of Directors; density; land disturbance; no planned road improvement projects for the area; no funding from either the County or the Virginia Department of Transportation to widen Route 360, Woolridge Road and Otterdate Road to accommodate current or future traffic volumes; preservation of the Upper Swift Creek Reservoir as a water resource; the lack of a Regional BMP Plan in place to mitigate road construction impacts; and the level of frustration experienced by Foxcroft residents at being excluded from the notification process and having little or no opportunity to attend meetings or review/discuss any aspect of the proposal and/or the proffered conditions.

In rebuttal, Mr. Wilson addressed previously expressed concerns; referenced the circumstances surrounding the notice of the informational meeting held with the Foxcroft Board of Directors; noted his client had appropriately complied with required notification criteria; and asked that a favorable recommendation be forwarded to the Board of Supervisors.

Various staff addressed concerns relative to density; BMP facilities; the late submittal of revised proffered conditions; funding for road improvements; and other concerns.

In response to questions from the Commission, Mr. McElfish stated the subject property drained south and then via tributaries to Swift Creek Reservoir; that there were no existing or anticipated on- or off-site drainage or erosion problems; and that, in accordance with the currently adopted Upper Swift Creek Watershed Master Plan, which established a pro-rata fee for the management of phosphorus loads associated with stormwater runoff, the developer must pay a pro-rata fee for the Upper Swift Creek Regional BMP Master Plan and a \$100 fee per residential lot for BMP maintenance for development of this property. He added that Department of Environmental Quality and Army Corps of Engineers criteria had changed and, in the interim, the Regional BMP permit application process had been set aside to allow compilation of a complete package for review.

Mr. Gulley stated he felt the County was violating its own law by allowing the developer to proceed without providing a BMP.

Mr. McElfish indicated he would discuss the matter with the County Attorney's Office to determine if the issues were in conflict.

Mr. Stack stated this case had been contentious with the major concern being a road connection to Foxcroft Subdivision. He stated the proposed development provided the Board of Supervisors an option whether or not a road connection should be made to Foxcroft or Fox Creek Subdivisions and a final decision ultimately was the Board's responsibility.

Messrs. Cunningham and Litton indicated they would support Mr. Stack's motion to recommend approval of the request.

Mr. Gulley stated he had not supported Case 02SN0259; would not support a recommendation for approval of this request; that with new information coming forward, he found it disturbing that the Commission would move forward with a request that appeared to violate the County's Ordinances with respect to phosphorous runoff and could have a potentially significant detrimental effect on the Upper Swift Creek Reservoir; and that he felt it inappropriate to take any action without knowing the full legality of the issues.

On motion of Mr. Stack, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 04SN0116 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

1. A maximum of 37 lots shall be permitted. (P)
2. The public water and wastewater systems shall be used. (U)
3. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
4. In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way on the south side of Woolridge Road, measured from the centerline of that part of Woolridge Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
5. Direct access from the property to Woolridge Road shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
6. To provide an adequate roadway system at the time of complete development, the owner/developer shall be responsible for the following:
  - a. Construction of additional pavement along Woolridge Road at the public road intersection to provide left and right turn lanes, based on Transportation Department standards;
  - b. Construction of a three (3) lane typical section (i.e., one (1) southbound lane and two (2) northbound lanes) for the public road at its intersection with Woolridge Road. The exact length of this improvement shall be approved by the Transportation Department;
  - c. Construction of two (2) lanes of the public road as a residential collector street from Woolridge Road to the southern property line;



- d. Widening/improving the south side of Woolridge Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, with modifications approved by the Transportation Department, for the entire property frontage; and
  - e. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. Provided, however, in the event the developer is unable to acquire any "off-site" right-of-way that is necessary for any improvement described in 6.a., the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right of way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and only be required to provide required road improvements within available right-of-way as determined by the Transportation Department. (T)
- 7. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 6, shall be submitted to and approved by the Transportation Department. (T)
  - 8. The exposed surfaces of the foundations of each dwelling shall be covered with brick or stone veneer or exterior insulation and finishing systems (EIFS) materials. (P)
  - 9. All dwellings shall have a minimum gross floor area of 2,500 square feet. (P)
  - 10. A fifty (50) foot buffer required in accordance with the Subdivision Ordinance along Woolridge Road shall be located within recorded open space. (P)
  - 11. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of each building permit:\
    - a. \$9,000 per lot, if paid prior to July 1, 2003; or
    - b. The amount approved by the Board of Supervisors not to exceed \$9000.00 per lot adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003; and
    - c. In the event the cash payment is not used for the purpose for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
  - 12. All lots shall have a minimum area of 15,000 square feet. (P)
  - 13. Recreational Facilities. Any recreational facilities shall be subject to the following restrictions:

- a. There shall be no outside public address systems or speakers.
  - b. With the exception of playground areas which accommodate swings, jungle gyms, or similar such facilities, all outdoor play fields, courts, swimming pools and similar active recreational areas shall be located a minimum of one hundred (100) feet from any proposed or existing single family residential lot line and a minimum of fifty (50) feet from any existing or proposed public road.
  - c. Within the one hundred (100) foot and fifty (50) foot setbacks, a fifty (50) foot buffer shall be provided along the perimeter of all active recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
  - d. Any playground areas (i.e., areas accommodating swings, jungle gyms or similar such facilities) shall be located a minimum of forty (40) feet from all property lines. A forty (40) foot buffer shall be provided along the perimeter of these recreational facilities except where adjacent to any existing or proposed roads. This buffer shall conform to the requirements of the Zoning Ordinance for fifty (50) foot buffers.
  - e. Nothing herein shall prevent development of indoor facilities and/or parking within the one hundred (100) foot setback.
  - f. Exterior lighting for recreational uses shall comply with Section 19-573 of the Zoning Ordinance, and the maximum height for light posts shall not exceed twenty (20) feet.
  - g. The location of all active recreational uses shall be identified in conjunction with the submittal of the first tentative subdivision plan.
  - h. In conjunction with the recordation of any lot adjacent to active recreational area(s), such area(s) shall be identified on the record plat along with the proposed recreational uses and required conditions. (P)
- 14. The developer shall notify the last known representative of the Foxcroft Homeowners Association on file with the Planning Department of the submission of tentative subdivision plans. Such notice shall occur at least twenty-one (21) days prior to the approval of such plans. The developer shall provide the Planning Department with a copy of the notice. (P)
  - 15. Public roads, other than the residential collector street, shall be constructed with concrete curb and gutter. (EE)
  - 16. All dwellings will have side or rear loaded garages. (P)
  - 17. At a minimum, the following restrictive covenants shall be recorded for the development:

Architectural Board - The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements,

and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the design and environmental standards. The standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions and guidelines with respect to location of structures upon property, size of structures, driveway and parking requirements, foundations and length of structures, and landscaping requirements. Copies shall be available from the Architectural Board for review. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to Owners, builders, and developers who seek to engage in development of or construction upon property within their operations strictly in accordance therewith. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such times as fifty percent (50%) of all property within subject property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors of the Association shall have the right to appoint a maximum of two (2) additional members. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Association, and at least one (1) member shall be an architect licensed to practice in the State of Virginia, who shall also be the Chairperson.

Mailboxes - Every improved lot shall be required to have a mailbox with supporting post and street light of design and installation as specified in the standards. Each lot owner shall be responsible for the maintenance and operation of the fixture, support, and mailbox.

Parking - Each property owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building or structure constructed on said property in accordance with the standards.

Signs - No signs shall be erected or maintained on any property by anyone including, but not limited to, the owner, a realtor, a contractor, or a subcontractor, except as provided for in the standards or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Association.

Condition of Ground - It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on such property which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

Minimum Square Footage - No plan required under these Covenants will be approved unless the proposed house or structure has a minimum square footage of enclosed dwelling space as specified in the standards. Such minimum requirement for each lot will be specified in each sales contract and stipulated in each deed. The term "enclosed dwelling area" as used in

these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas.

Residential Use -

- a. All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the side and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building.
- b. A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling and provided, however, that such suite would not result in overcrowding of the site.
- c. The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

Exterior Structure Completion - The exterior of all house and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.

Screened Areas - Each lot owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects much be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.

Vehicle Storage - No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.

Temporary Structures - No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.

Antennas - No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Association for permission to install a television antenna and such permission shall not be unreasonably withheld.

Further Subdivision - No lot shall be subdivided or its boundary lines changed, nor shall applications for same be made to Chesterfield County, except with the written consent of the Declarant. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create a modified building lot or a replatted lot suitable and fit as a building site including, but not limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of the paragraph shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

Animals - Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet which has been a nuisance or a danger.

Motor Bikes All Terrain Vehicles - No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.

External Lighting - No external lighting shall be installed or utilized on any property which is of such character, intensity, or location as to interfere with the use, enjoyment, and privacy of any lot or owner in the near vicinity. No neon or flashing lights shall be permitted. All external lighting shall be approved by the Architectural Board as appropriate in size, location, color, and intensity.

Swimming Pools - No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.

Rules and Regulations - The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Association at least thirty (30) days prior to their effective date. (P)

AYES: Messrs. Litton, Cunningham and Stack.  
NAY: Mr. Gulley.  
ABSENT: Mr. Gecker.

Mr. Jacobson recalled Case 04PD0126, Chesterfield County Parks and Recreation Department.

**04PD0126:** In Dale Magisterial District, **CHESTERFIELD COUNTY PARKS AND RECREATION DEPARTMENT** requested Substantial Accord Determination to permit a public park on 154.2 acres fronting in four (4) areas for approximately 680 total feet on the north line of Jessup Road, north of Zion Hill Church Road and Jessup Meadows Drive and also fronting approximately seventy (70) feet on the east line of Turner Road, approximately 715 feet north of Jessup Road. Tax ID 773-688-0410 (Sheet 11).

Ms. Orr presented an overview of the request and staff's recommendation.

Mr. Mike Golden, the applicant's representative, accepted staff's recommendation.

Mr. Don Creech, an adjacent property owner, did not oppose the request, noting that his property was surrounded on three (3) sides by the subject property and asked that consideration be given to requiring the installation of a fence to preclude encroachment and trespassing.

Mr. Litton stated the subject property had been donated to the State and could not be developed as a residential use. He referenced conditions, prepared by staff at his request, that he felt would accommodate the development but not infringe on adjacent properties.

In response to concerns from Mr. John Timberlake, an adjacent property owner, staff provided him with a copy of the conditions recommended by Mr. Litton and explained the difference between those conditions and the conditions outlined in the "Request Analysis."

In response to Mr. Creech's concerns relative to the installation of a fence around his property, Mr. Golden stated he would be glad to meet with him to discuss his concerns.

Mr. Litton stated he felt the residential property should be fenced and recommended a condition for the installation of a six (6) foot security-type fence around Mr. Creech's property.

Mr. Golden stated the recommended conditions were acceptable.

On motion of Mr. Litton, seconded by Mr. Cunningham, the Commission resolved to recommend approval of Case 04PD0126, subject to the following conditions:

CONDITIONS

1. Development of the property shall conform to the requirements of the Zoning Ordinance for Corporate Office (O-2) Districts in Emerging Growth Areas. (P)

(NOTE: The requirements of the underlying Agricultural (A) zoning classification, where these requirements exceed the requirements of the Ordinance for O-2 Districts in Emerging Growth Areas, remain applicable.)

2. Prior to the property being designed for park use or prior to site plan approval, whichever occurs first, forty-five (45) feet of right of way on the east side of Turner Road and thirty-five (35) feet of right of way on the north side of Jessup Road, measured from the centerlines of both of roadways immediately adjacent to the property, shall be recorded. Based on the Parks and Recreation Department's ability to provide these rights of way, this condition may be eliminated/modified by the Transportation Department. (T)
3. Access from the property shall be limited to one (1) entrance/exit onto Jessup Road, aligning with the Jessup Meadows Drive intersection. The exact location of this access shall be approved by the Transportation Department. (T)
4. Prior to the issuance of an occupancy permit, additional pavement shall be constructed along Jessup Road at the approved access to provide left and right turn lanes, based on Transportation Department standards. The developer shall dedicate free and unrestricted, to and for the benefit of Chesterfield County, any additional right of way (or easements) necessary for this improvement. (T)
5. No outdoor lighting shall be permitted other than security lighting. (P)
6. Park use shall be limited to passive recreational uses such as walking trails, picnic areas, nature observation areas and similar types of uses. Active recreational uses including, but not limited to, play fields, courts, swimming pools, and playground areas which accommodate swings, jungle gyms or similar such facilities shall not be permitted. (P)
7. The operation of go-carts, motor-cross motorcycles and all terrain vehicles (ATVs) shall not be permitted on the property. (P)
8. A minimum six (6) foot security-type fence shall be installed generally parallel to the property lines of Tax IDs 771-688-8318, 772-687-1012 and 772-688-1846 for the purpose of discouraging trespassing from the park onto the identified properties. The exact design and location of the fence shall be approved at the time of site plan review. (P)

AYES: Messrs. Gecker, Litton, Cunningham, Gulley and Stack.  
ABSENT: Mr. Gecker.

**F.     ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Gulley, seconded by Mr. Cunningham, that the meeting adjourned at approximately 10:07 p. m. to Monday, October 27, 2003, at 6:00 p. m., in Room 502 of the Chesterfield County Administration Building.

AYES:           Messrs. Litton, Cunningham, Gulley and Stack.  
ABSENT:        Mr. Gecker.

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Chairman/Date

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Secretary/Date